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ABSTRACT

Designed for middle school through high school students, this unit contains eight lesson plans that focus on Florida state law. The state lessons correspond to lessons in the volume, "Antidote: Civic Responsibility. Drug Avoidance Lessons for Middle School & High School Students." Developed to be presented by educators, law student, or attorneys, the state lessons are interactive and sequential, although individual lessons can stand alone. The document includes legal information about driving while intoxicated, drug offenses, sentencing, and drug and alcohol statutes written specifically to combat juvenile abuse. (RJC)

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Antidote: Civic Responsibility

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Florida Law

Lesson 1

1. Has Aimee violated any state laws? Have her parents?

Aimee has violated no Florida law as there is no law which makes a minor liable for an unintentionally dangerous act toward another minor.

Aimee and Carrie's parents may, however, be violating Florida law. Florida law defines an abused or neglected child as one whose "mental or physical health or welfare is harmed, or threatened with harm, by the acts or omissions of the parent or other person responsible for the child's welfare. . ." Fla. Stat. Ann. §415.503(1) (West Supp. 1992). It goes on to say that "'harm' to a child's health or welfare can occur when the parent or other person responsible for the child's welfare . . . (d) abandons the child; (e) fails to provide the child with supervision of guardianship by specific acts or omissions of a serious nature requiring the intervention of the department or the court. . . . Once a report of abuse or neglect is received the administrative process begins. At most the child may be removed from the home, in the alternative other proceedings will occur to investigate the allegations and remedy the problem.

2. Does state law allow 17-year-old Tyrell to drink a glass of wine with his dinner without his parents' consent?

Tyrell may not drink the wine at all. Florida law prohibits individuals under 21 from possessing alcoholic beverages. Fla. Stat. Ann. §562.111 (West 1991). Specific exceptions are provided for minors 17 and above within a limited scope of employment purposes (see §562.13). Penalties for violation of §562.111 include suspension, revocation or withholding issuance of an individual's driver's license/privilege to drive for six months to one year for a first violation and two years for a subsequent violation. Fla. Stat. Ann. §322.056 (West Supp. 1992). Additional punishment can include imprisonment for up to 60 days and/or a fine up to \$500 for a first offense. Fla. Stat. Ann. §§775.082(4)(b) & 775.083(1)(e) (West 1991).

3. Is Maria violating any law when she tells her roommates whom to call to buy marijuana?

Florida law makes it illegal to sell, purchase, manufacture, or deliver a controlled substance. Fla. Stat. Ann. § 893.13(1) (West 1991). Delivery is defined as the actual, constructive, or attempted transfer from one person to another of a controlled substance. § 893.02(5). Maria's supplying critical information to her roommates so they can attain marijuana could constitute delivery, and thus she would be in violation of the law.

Additionally, since obtaining and possessing marijuana is

illegal Maria could be part of a conspiracy, depending on the extent of her involvement with the dealer. Fla. Stat. Ann 777.04(3) (West 1993).

4. Have Adam and Alex broken any laws other than those against drinking and fighting?

The twins' behavior constitutes disorderly conduct, a second degree misdemeanor under Fla. Stat. Ann. § 877.03 (West 1993). In addition, it is likely that they have committed assault, defined as "an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent." Fla. Stat. Ann. § 784.011 (West 1993).

Manslaughter is defined in Florida as "the killing of a human being by the act, procurement, or culpable negligence of another, without lawful jurisdiction...and in cases in which such killing shall not be excusable homicide or murder...." Fla. Stat. Ann. § 782.07 (West 1993). In contrast, an excusable homicide is "committed by accident and misfortune in doing any lawful act by lawful means with usual ordinary caution, and without any unlawful intent, or by accident and misfortune in the heat of passion, upon any sudden and sufficient provocation, or upon a sudden combat, without any dangerous weapon being used and not done in a cruel or unusual manner. Fla. Stat. Ann. § 782.03 (West 1991). The facts here are insufficient to determine if the twins were acting in the heat of passion or with sudden and sufficient provocation to make Joe's death an excusable homicide. Their actions certainly are not lawful, nor do they involve ordinary caution. Thus, if their behavior is not excusable, it may result in their being charged and convicted of manslaughter.

5. Has Jose violated any state law even though he is not drinking? Has Carlos or TJ violated any state law?

Jose, age 17, is acting as the designated driver and according to the facts not drinking. Jose will not be in violation of Florida's open container law¹ so long as any alcohol in the vehicle is in the possession of the passenger or is locked in the glove compartment, locked trunk or other locked non-passenger area of the vehicle. Fla. Stat. Ann. § 316.1936(a) (West Supp. 1992).

TJ, age 18, is not allowed to possess alcohol, since Florida has set 21 as the minimum age to allow possession of alcoholic beverages. Fla. Stat. Ann. § 562.111 (West Supp. 1992). In addition, if he is drinking in the car, he is in violation of

¹ A container is deemed open if it is immediately capable of being consumed from, or if the seal has been broken. Fla. Stat. Ann. § 316.936(1) (West 1991).

Florida's open container law by possessing an open container of alcohol in a vehicle. Fla. Stat. Ann. § 316.1936(2)-(3) (West Supp. 1992).

Carlos, age 22, is above the legal drinking age of 21. If he is drinking in the car, however, he is violating Florida's open container law. Fla. Stat. Ann. § 316.1936(2)-(3) (West Supp. 1992). So long as the alcohol is in Carlos' physical control it is considered to be in his possession. Fla. Stat. Ann. § 316.1936(2)-(3) (West Supp. 1992). Since TJ is under age, Carlos must have procured the alcohol for him; this is a violation of Fla. Stat. Ann. § 562.111 (West 1993), which prohibits selling, giving or serving alcoholic beverages to a person under the age of 21. He may also be guilty under Fla. Stat. Ann. § 827.04, which prohibits "any act which causes or tends to cause or encourage any person under the age of 18 years to become a delinquent...."

Drivers who violate § 562.111 are guilty of non-criminal traffic infractions under tit. 318 (maximum fine \$500). Passengers who violate this section are guilty of non-moving traffic violations under tit. 318 and must pay a fine of \$32. Fla. Stat. Ann. § 318.18(2) (West Supp. 1992).

6. Is Dr. Melrose violating any state or federal law by prescribing pain killers without conducting an examination or determining need?

Dr. Melrose is violating not only state but federal law. Practitioners such as Dr. Melrose are able to prescribe controlled substances in good faith and in the course of professional practice. Fla. Stat. Ann. § 893.02(17) and § 893.05(1). This means that "a practitioner must act in an honest endeavor to carry on his profession of healing patients." State v. Weeks, 335 So.2d 274 (1976). Dr. Melrose's prescribing controlled substances without examination is not in good faith and consequently violates Fla. Stat. Ann. § 893.13, which makes it illegal to dispense or distribute a controlled substance. Selling and delivering controlled substances are also illegal. If convicted, Dr. Melrose would lose his license to practice medicine in accordance with Fla. Stat. Ann. § 893.11. Similarly, under 21 U.S.C.A. § 829 (West 1993), a physician must have a legitimate medical purpose for dispensing drugs, and the act of dispensing or prescribing drugs should be within the usual course of professional conduct. U.S. v. Varma, 691 F.2d 460 (1982), U.S. v. Jamieson, 605 F. Supp. 119 (1985).

Dr. Melrose's patients, if they do not provide him with a bona fide reason for needing the painkillers, may also be breaking the law. 21 U.S.C.A. § 843 (West 1993) prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge. This is also prohibited under Fla. Ann. Stat. § 893.13(3)(a) (West 1991).

7. Is Danielle violating any law by taking only one or two pills from someone else's prescription?

Danielle is violating several state and federal laws. Since she is in effect dispensing prescription drugs to herself, she is breaking at least two Florida laws. Fla. Stat. Ann § 893.13(1)(f) states that is "unlawful for any person to be in actual or constructive possession of a controlled substance unless such controlled substance was lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while action in the course of his professional practice or to be in actual or constructive possession of a controlled substance except as otherwise authorized by this chapter." Violators of this section are guilty of third degree felonies: imprisonment for up to 5 years and a fine of up to \$5000. She is also violating 21 U.S.C.A. § 829 (West 1993), which prohibits dispensing any controlled substance which is a prescription drug without the written prescription of a practitioner; 21 U.S.C.A. § 843 (West 1993), which prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge; and 21 U.S.C.A. § 844 (West 1993), which prohibits simple possession of a controlled substance unless such a substance was obtained by a prescription. The seriousness of her crime under federal drug control laws will depend on the type of drug which she is taking and how the drugs are used.

Danielle's actions constitute petit theft under Fla. Ann. Stat. § 812.014 (West 1991).: "A person is guilty of theft if he knowingly obtains or uses, or endeavors to obtain or use, the property of another with intent to, either temporarily or permanently (a) Deprive the other person of a right to the property or a benefit therefrom. (b) Appropriate the property to his own use or to the use of any person not entitled thereto." A first offense is a second degree misdemeanor punishable by up to six months imprisonment and/or a fine of up to \$500, but subsequent convictions will ultimately be deemed felonies. Danielle knowingly took several pills from each prescription delivered. She had no intention to pay for the pills or replace them. Consequently, she is guilty of theft, specifically petit theft as defined in § 812.014(2)(d).

8. Is Renee breaking any law even though she is not selling drugs herself?

Even though she is not selling drugs directly, Renee is violating several state and federal laws. Fla. Stat. Ann. § 893.13(1)(a) (West 1993) prohibits any person "to sell, . . . deliver, or possess with intent to sell, . . . or deliver a controlled substance." Penalties vary depending on the substance; the more harmful the substances she is selling the greater the sentences. Since Renee is using her daughter to assist with her illegal activities she is in violation of §

893.13(1)(c) which makes it unlawful for any person 18 or older to use or hire an person under 18 to assist with the sale or delivery of illegal drugs or to use such a person to assist in avoiding detection or apprehension. Further, Renee's selection of a delivery location will add an additional count and possible conviction. Section 893.13(1)(i) makes it illegal for any person to sell, . . . or deliver a controlled substance in, on, or within 200 feet of the real property comprising a public housing facility, a public or private college, university, or other postsecondary educational institution, or any public park. In addition, Renee is violating federal law under 21 U.S.C.A. § 841 (West 1993) prohibiting possession of a controlled substance with the intent to manufacture, distribute or dispense drugs and 21 U.S.C.A. § 844 (West 1993) prohibiting simple possession of a controlled substance.

Renee could receive an increased sentence in accordance with the federal sentencing guidelines as a result of using her child in her scheme and dealing to children. The United States expressed its concern with the importance of protecting children from drug trafficking under 21 U.S.C.A. § 860 (West 1993), which imposes heavier prison sentences in cases involving the distribution or manufacture of controlled substances in the proximity of schools, playgrounds or youth centers. Under 21 U.S.C.A. § 859 (West 1993), the distribution of a controlled substance to a person under 21 years of age is subject to increased penalties. She may be considered to be distributing drugs to her daughter even though her daughter is not the end user of the drugs, as well as distributing drugs to the children to whom her daughter delivers the drugs. 18 U.S.C.A. App. 4 § 3B1.3 (West 1993) also provides for increased sentences in cases of abuse of one's position of trust, as in a drug trafficking defendant involving her daughter in the drug trade. U.S. v. Ledesma, 979 F.2d 816 (1982).

In addition to the criminal charges, Renee will likely be charged with child abuse and neglect under Fla. Stat. Ann § 827.04 for endangering the welfare of her child, and under the same section with causing a child to become delinquent. She risks losing custody. See Question 1 for definition of abused or neglected child.

9. Did Jim violate any law other than those regarding controlled substances?

Jim and Andre have both broken several laws. Obviously, their heroin use is a felony under state and federal drug-control statutes, including Fla. Stat. Ann. § 893.13 (West 1993); 21 U.S.C.A. § 841 (West 1993), which prohibits possession of a controlled substance with the intent to manufacture, distribute or dispense such substance; and 21 U.S.C.A. § 844 (West 1993) prohibits simple possession of a controlled substance. Their possession and use of drug paraphernalia,

Florida Law

the needle or syringe, in illegal drug use violates Fla. Stat. Ann. § 893.145.

Jim transmitted the HIV virus to Andre through the shared needle. Florida has not as yet tried a case which addresses this issue. Under the Model Penal Code, however, Jim's behavior could constitute simple or aggravated assault or the attempt thereof, or reckless endangerment; under certain extreme situations, it could be construed as murder. See Gene Schultz, AIDS: Public Health and the Criminal Law, 7 St. Louis U. Pub. L. Rev. 65 (1988); Roger N. Braden, AIDS: Dealing With the Plague, 19 N. Ky. L. Rev. 277 (1992). Under Florida law, an assault is "an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent." Fla. Stat. Ann. § 784.011 (West 1993). Aggravated assault includes assault "with a deadly weapon without intent to kill; or with an intent to commit a felony...." Fla. Stat. Ann. § 784.021 (1)(a) and (1)(b). Since Jim and Andre were involved in the perpetration of a felony, this section might apply to the case. In some cases, it has been suggested that the HIV virus provides a deadly weapon. Cf. Brock v. State, 555 So.2d 285 (Ala. Crim. App. 1989).

Andre may be held liable for Jim's death by overdose under Fla. Stat. Ann. §782.04, which defines murder as, among other things, the unlawful killing of a human being "[w]hich resulted from the unlawful distribution of any substance controlled under § 893.03(1)", which constitutes a capital felony punishable by life imprisonment or the death penalty.

Florida Law

10. Has the bartender or owner of Bulldog's Bar & Grill violated any law?

If the bartender or owner received written notice from a member of Su's family that Su was a habitual drunkard, serving Su would make the server guilty of second degree misdemeanor punishable by imprisonment for up to six months and/or a fine up to \$500. In some circumstances, for example if Su was a regular at the bar and was frequently intoxicated, this knowledge may not be necessary. See Sabo v. Shamrock Communications, Inc., App. 5 Dist. 566 So.2d 267 (1990) approved 591 So.2d 907.

Bulldog's owner and bartender are not liable for any injury or damaged caused by Su unless the person who willfully and unlawfully sells or furnishes alcoholic beverages to a person who if not of lawful drinking age or who knowingly serves a person habitually addicted to the use of any or all alcoholic beverages. Under those exceptions, the provider may be liable for resulting injury or damages. Fla. Stat. Ann. § 768.125 (West 1991).

Lesson 2

CRIMINAL JUSTICE STATISTICS:
DRUG AND ALCOHOL RELATED OFFENSES
UNIFORM CRIME REPORT DATA OF 1990--CRIME IN THE UNITED STATES

According to the Uniform Crime Report of 1990, 68% of the drug abuse violators were arrested for possession of heroin, cocaine or a narcotic derivative. A little over 31% of drug arrests were for the sale and manufacture of drugs.

Out of the 14,195,100 total number of arrests that occurred in 1990, drug abuse violations accounted for 1,089,500, driving under the influence comprised 1,810,800, and liquor law violations represented 714,700 of the total.

1981-1990 Ten Year Trend

Arrests for Drug Abuse Violations

In 1981, the total number of arrests for drug abusers under the age of 18 was 69,383. On the other hand in 1990, the total number was 50,435. This represents a 27.3% decrease in the number of arrests for persons under the age of 18. However, the number of arrests for persons over the age of 18 represent an 89.9% increase from 332,733 in 1981 to 631,932 in 1990.

Liquor Law Violations

For persons over the age of 18, the number of arrests for liquor law violations have dramatically increased to 61% from 218,079 in 1981 to 351,064 in 1990. However, the number of arrests for persons under the age of 18 has decreased to less than 0.4%.

♦ ♦ ♦

Criminal Victimization in the United States, 1990
A National Crime Victimization Survey Report, February, 1992

Percent Distribution of Victimizations by Perceived Drug or Alcohol Use by Offender:

- ♦ Of the 130,260 total rapes reported by victims to police, 49.8% were believed to be committed by someone under the influence of drugs or alcohol.
- ♦ Of a total of 1,149,710 reported robberies, 24.2% involved an offender under the influence of drugs or alcohol.
- ♦ Of 1,600,760 aggravated assaults committed 40% were committed by people under the influence of drugs.
- ♦ Of the 3,128,130 simple assaults reported, 32.9% were perpetrated by someone perceived to be under the influence of drugs or alcohol.

Florida Law

Lesson 4

FEDERAL SCHEDULE (answers to handout 3)

DRUG	SCHEDULE
heroin	schedule 1
beer	not a scheduled drug
vodka	not a scheduled drug
nitrate	not a scheduled drug
amphetamines	schedule 3
caffeine	not a scheduled drug
marijuana	schedule 1
crack	schedule 2
scotch	not a scheduled drug
MSG	not a scheduled drug
cocaine	schedule 2
glue	not a scheduled drug

FEDERAL PENALTIES BY SCHEDULE FOR POSSESSION

SCHEDULE	MAX. PRISON	MAX. FINE	MAX. TOTAL
schedule 1	15 years	\$25,000	15yrs + \$25,000
schedule 2	15 years	\$25,000	15yrs + \$25,000
schedule 3	5 years	\$15,000	5yrs + \$15,000
schedule 4	3 years	\$10,000	3yrs + \$10,000
schedule 5	1 year	\$ 5,000	1yr + \$ 5,000
unscheduled drug	n/a	n/a	n/a

The penalty doubles if the defendant has a previous conviction for a schedule law violation.

In order for a drug to be a narcotic, it must be a derivative of opium. All narcotics contain opium or opium derivatives, ie: heroin.

Malt beverages such as beer are not included in the scheduling process. They are controlled by liquor laws.

Information from 21 U.S.C.A. § 841 (West 1981).

Florida Law

States	Heroin	Cocaine	Crack	Marijuana	Amphetan ine
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Alabama	sch 1	sch 2	sch 2	sch 1	sch 3
Alaska	sch 1A	sch 2A	sch 2A	sch 3A	sch 4A
Arizona	sch 1	sch 2	sch 2	sch 1	sch 2
Arkansas	sch 1	sch 2	sch 2	sch 1	not listed
California	sch 1	sch 2	sch 2	sch 1	sch 2
Colorado	sch 1	sch 2	sch 2	sch 1	sch 2
Connecticut	sch 1	sch 2	sch 2	sch 1	sch 3
Delaware	sch 1	sch 2	sch 2	sch 1	sch 2
D.C.	sch 1	sch 2	sch 2	sch 2	sch 2
Florida	sch 1	sch 2	sch 2	sch 1	sch 2
Georgia	sch 1	sch 2	sch 2	sch 1 ²	sch 2
Hawaii	sch 1	sch 2	sch 2	sch 1	sch 2
Idaho	sch 1	sch 2	sch 2	sch 1	sch 2
Illinois	sch 1	sch 2	sch 2	listed under its act: the Cannabis Control Act, 56 1/2 §701 et seq	sch 2
Indiana	sch 1	sch 2	sch 2	sch 1	sch 2
Iowa	sch 1	sch 2	sch 2	sch 1	sch 2
Kansas	sch 1	sch 2	sch 2	sch 1	sch 1
Kentucky	sch 1	sch 2	sch 2	sch 1	sch 2
Louisiana	sch 1	sch 2	sch 2	sch 1	sch 2
Maine ³	sch W	sch W	sch W	sch W & Z	sch W
Maryland	sch 1	sch 2	sch 2	sch 1	sch 1
Massachusetts ⁴	class A	class B	class B	class D	class B
Michigan	sch 1	sch 2	sch 2	sch 1	sch 2
Minnesota	sch 1	sch 2	sch 2	sch 1	sch 2
Mississippi	sch 1	sch 2	sch 2	sch 1	sch 2
Missouri	sch 1	sch 2	sch 2	sch 1	sch 2
Montana	sch 1	sch 2	sch 2	sch 1	sch 2

² Must have more than 15% THC (tetrahydrocannabinol), the chemical in the cannabis plant.

³ Maine schedules its drugs under an alphabetical category: W, X, Y & Z. The schedules are similar to other state categorizations.

⁴ Massachusetts calls their schedules classes, but they are the same thing.

Florida Law

States	Heroin	Cocaine	Crack	Marijuana	Amphetan ine
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Nebraska	sch 1	sch 2	sch 2	sch 1	sch 2
Nevada ⁵	sch 1	sch 2	sch 2	sch 1	sch 3
New Hampshire	sch 1	sch 2	sch 2	sch 1	sch 3
New Jersey	sch 1	sch 2	sch 2	sch 1	sch 3
New Mexico	sch 1	sch 2	sch 2	sch 1 & 2	sch 2
New York	sch 1	sch 2	sch 2	sch 1	sch 2
North Carolina	sch 1	sch 2	sch 2	NC has a sixth schedule which incl. marijuana	sch 2
North Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Ohio	sch 1	sch 2	sch 2	sch 1	sch 2
Oklahoma	sch 1	sch 2	sch 2	sch 1	sch 2
Pennsylvania	sch 1	sch 2	sch 2	sch 1	sch 2
Puerto Rico	sch 1	sch 2	sch 2	sch 1	sch 3
Rhode Island	sch 1	sch 2	sch 2	sch 1	sch 2
South Carolina	sch 1	sch 2	sch 2	sch 1	sch 2
South Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Tennessee	sch 1	sch 2	sch 2	sch 2, but only for certified patients under the Controlled Substances Therapeutic Research Act	sch 2
Texas	sch 1	sch 2	sch 2	sch 1	sch 2
Utah	sch 1	sch 2	sch 2	sch 1	sch 2
Vermont	sch 1	sch 2	sch 2	sch 1	sch 3
Virginia	sch 1	sch 2	sch 2	not listed, but liquid marijuana or hashish oil is listed as sch 1	sch 2
Washington	sch 1	sch 2	sch 2	sch 1	sch 2
West Virginia	sch 1	sch 2	sch 2	sch 1	sch 2
Wisconsin	sch 1	sch 2	sch 2	sch 1	sch 2

⁵ While Nevada does not specifically name drugs under its five schedules, but instead lists the specific tests to determine under which schedule a drug belongs § 453.2182 says that the state will use 21 USC as a guide for scheduling. The state merely reserves the right to reschedule any controlled substance as it sees fit according to the tests set out in 453.166, et. seq.

Florida Law

States	Heroin	Cocaine	Crack	Marijuana	Amphetan ine
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Wyoming	sch 1	sch 2	sch 2	sch 1	sch 2
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Florida Law

Lesson 5

OFFENSE/SUBSTANCE	SENTENCE
First Offense: Cocaine - Possession With Intent To Distribute - 5 kg	• minimum of 15 years in prison and • fine of \$250,000
First Offense: Trace of Heroin - Possession of 1 kg or more of a mixture with a small, but detectable amount of heroin	• minimum of 25 years in prison, and • fine of \$500,000
First Offense: Codeine - Possession - 200 mg	• minimum of 3 years in prison, and • fine of 50,000
Second Offense: Marijuana - Possession - 50 kg	• minimum of 3 years in prison, and • \$25,000 fine
Third Offense - Methamphetamine - Possession - 100 g	• minimum of 5 years in prison, and • fine of \$100,000

Cite: FLA. STAT. § 893 (1991).

Current Federal Penalties:

Group 1 and Group 2: . . . person shall be sentenced to prison which may not be less than 10 years or more than life and a fine not to exceed 4 million dollars.

Group 3: . . . person shall be sentenced to a term of imprisonment of not more than one year, a fine not exceed \$250,000 in the case of an individual.

Group 4: . . . person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed \$500,000.

Group 5: . . . person shall be sentenced mandatory life imprisonment without release and fine not to exceed \$8 million.

Cite: 21 U.S.C. § 841 (1992).

Florida Law

Lesson 6 & 7

1. What does DWI stand for?

Driving while intoxicated.

2. What does DUI stand for?

Driving under the influence. §316.193 - it is illegal to drive while under the influence or with a blood alcohol concentration of 0.10 or more.

3. In terms of penalties, is being convicted of DWI more serious than being convicted of DUI?

Under Florida law there is no distinction between DUI or DWI.

4. What are the penalties for being convicted of DWI? DUI?

CONVICTIONS	PUNISHMENT
first conviction	♦ a fine of \$250 to \$500, and ♦ jail for not more than 6 months ♦ license revoked for 180 days to 1 year
second conviction	♦ a fine of \$500 to \$1000, and ♦ jail for not more than 9 months ♦ license revoked for not less than 5 years
third conviction	♦ a fine of \$1000 to \$2500, and ♦ jail for not more than 12 months ♦ license revoked for not less than 10 years
fourth and subsequent convictions	♦ jail for not more than 5 years, and ♦ a fine of not less than \$1000, and ♦ license revoked for not less than 10 years

5. What is the penalty for refusing to submit to a breathalyzer test upon a police officer's reasonable request?

Under §316.1932 anyone who drives on the roads of Florida consents to a breath test. Refusal to take the test will result in license suspension for one year. If one's license was suspended before for

Florida Law

refusal, the suspension will be for 18 months.

6. What must a person's blood alcohol content (BAC) be before he/she is legally intoxicated.

A BAC of 0.10 indicates legal intoxication in Florida.

7. The legal limit for blood alcohol is lower for persons under the legal drinking age of 21. True or False?

False. Florida does not lower the BAC for persons under 21.

8. An open container of alcohol can be in your car if you are 21 or over. True or False?

False. Under §316.1936 it is illegal for any person to be in possession of an open container of alcohol while operating a vehicle. Under §562.111 it is illegal for any person under 21 to be in possession of alcohol.

Florida Law

Lesson 9

Although the drinking age is 21 in all 50 states (meaning specifically that the sale of alcohol to minors is prohibited), the laws on teenage drinking vary from state to state. The laws vary in regard to whether they include prohibition of the purchase of alcohol, the attempt to purchase alcohol, the consumption of alcohol and the possession of alcohol. According to the March 11, 1993 Safety Recommendation report of the National Transportation Safety Board,

- ♦ Five states (DE, FL, MT, NH & NY) and the District of Columbia do not prohibit the purchase of alcohol by minors.
- ♦ West Virginia and the District of Columbia do not prohibit public possession of alcohol by minors.
- ♦ 23 states (AK, AR, DE, DC, FL, GA, RI, IL, IA, LA, ME, MD, MI, MS, MT, NV, NH, NY, SC, TX, UT, VT, VA) do not prohibit minors from attempting to purchase alcohol.
- ♦ 21 states (AR, CO, CT, FL, GA, HI, IA, KY, LA, MA, MS, MO, NE, NH, NM, NC, OR, SC, VT, WV, WY) do not prohibit alcohol consumption by minors.
- ♦ 16 states (AR, CA, CO, HI, KY, LA, ME, MI, NM, NY, NC, OK, SD, VA, WA, WY) do not prohibit minors from misrepresenting their age in order to purchase alcohol.
- ♦ 19 states (AL, AR, CO, DE, DC, IA, KS, LA, MD, MN, MT, NJ, OR, PA, SC, UT, VA, WA, WI) do not prohibit minors from presenting false ID to purchase alcohol.

In addition, most states do not prohibit minors from driving with alcohol in their blood unless their blood alcohol content reaches the adult legal limit, which is .10 percent in most states. Fifteen states, however, have amended their laws to lower for minors the permitted blood alcohol content while driving. These laws vary according to the age under which minors must be in order for the lower blood alcohol content to apply. Here is the layout for state laws on blood alcohol content for minors while driving:

<u>0.00 BAC</u>	<u>0.01 BAC</u>	<u>0.02 BAC</u>	<u>0.04 BAC</u>	<u>0.05 BAC</u>	<u>0.06 BAC</u>
AZ (<21)	NJ (<21)	ME (<21)	RI (<21)	CA (<18)	GA (<18)
NC (<19)		MD (<21)	NH (<21)	NM (<18)	
OR (<21)		OH (<18)			
UT (<21)		VT (<18)			
WI (<18)					

A number of states have tried to cut down on teenage driving accidents by implementing nighttime driving restrictions. The following states have some form of curfew for teenage driving:

ID: minors <16 can drive during the daytime only

IL: minors <17 cannot drive between 11pm-6am Mon-Thur and

Florida Law

12am-6am Fri-Sun

LA: minors <15 cannot drive between 11pm-6am Mon-Thur and

12am:6am Fri-Sun

MD: minors <16 cannot drive between 12am-5am

MA: minors <18 cannot drive between 1am-4am

NY: minors <18 cannot drive between 9pm-5am

PA: minors <18 cannot drive between 12am-5am

SD: minors <16 cannot drive between 8pm-6am.